

# ATTACHMENT B

UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK

SECURITIES INVESTOR PROTECTION  
CORPORATION,

Plaintiff-Applicant,

v.

BERNARD L. MADOFF INVESTMENT  
SECURITIES LLC,

Defendant.

Adv. Pro. No. 08-01789 (SMB)

SIPA LIQUIDATION

(Substantively Consolidated)

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In re:

BERNARD L. MADOFF,  
Debtor.

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IRVING H. PICARD, Trustee for the Liquidation  
of Bernard L. Madoff Investment Securities LLC,

Plaintiff,

v.

KUNTZMAN FAMILY LLC;

Adv. Pro. No. 10-04752 (SMB)

JACQUELINE D. GREEN, in her capacity as a  
Managing Member of the Kuntzman Family  
L.L.C. and as Trustee of the Irrevocable Trust  
FBO Jennifer Gattegno and the Irrevocable Trust  
FBO Ethan Siegel, both members, of the  
Kuntzman Family LLC;

WAYNE D. GREEN, in his capacity as a  
Managing Member of the Kuntzman Family  
LLC;

JUDITH GATTEGNO, in her capacity as a  
Member of the Kuntzman Family LLC;

IRREVOCABLE TRUST FBO JENNIFER  
GATTEGNO, in its capacity as a Member of the  
Kuntzman Family LLC; and

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IRREVOCABLE TRUST FBO ETHAN SIEGEL, in  
its capacity as a Member of the Kuntzman Family  
LLC,

Defendants.

**EXPERT REPORT OF**  
**LISA M. COLLURA, CPA, CFE, CFF**

**Proof of Transfers  
To the Kuntzman Defendants**

**June 28, 2019**

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## I. PROFESSIONAL BACKGROUND

1. I am a Senior Managing Director in the Forensic and Litigation Consulting practice of FTI Consulting, Inc. ("FTI"), with 25 years of experience in accounting, auditing and litigation consulting services. I specialize in providing forensic accounting and financial fraud investigative services in connection with internal investigations on behalf of trustees, boards of directors and audit committees of companies.
2. I have extensive experience in conducting large-scale, fact-finding investigations into fraudulent financial transactions, including tracing significant flows of funds between accounts and entities. During my career at FTI, I have assisted in the investigation of several of the largest fraud cases in the United States.
3. I am a Certified Public Accountant (CPA), a Certified Fraud Examiner (CFE), a member of the American Institute of Certified Public Accountants (AICPA), and am Certified in Financial Forensics (CFF) by the AICPA. My curriculum vitae, attached as **Exhibit 1** to this report, further describes my professional credentials, experience, and qualifications, including my testimony in the last four years.

## II. SCOPE OF ASSIGNMENT

4. Bernard L. Madoff Investment Securities LLC ("BLMIS") was an investment firm owned and operated by Bernard L. Madoff ("Madoff"). On December 11, 2008, Madoff was arrested for violating multiple securities laws in connection with running a Ponzi scheme through the investment advisory business of BLMIS (the "IA Business"). On December 15, 2008, Irving H. Picard was appointed as the Trustee for the liquidation of the business of BLMIS, and Baker & Hostetler LLP was retained as his counsel. Shortly thereafter, FTI was retained by Baker & Hostetler LLP, on behalf of the Trustee, to analyze, among other things, the financial affairs of BLMIS and to assist the Trustee with the liquidation of BLMIS. As part of our engagement, FTI was tasked with the exercise of reconstructing the books and records of

BLMIS, including all records of the cash transactions related to the BLMIS IA Business customer accounts as far back as the records allow.

5. This report should be read in conjunction with my Expert Report regarding the Reconciliation of Cash Transactions for All BLMIS Customers and Analysis of IA Business Cash Activity dated January 16, 2019 (the "Collura January 2019 Report").<sup>1</sup>

6. For this report, I was specifically tasked with performing forensic analyses to determine the following:

- Whether the cash deposit and withdrawal transactions reflected on the customer statements for the Kuntzman Defendants<sup>2</sup> customer account at BLMIS that is at issue in this matter (the "Kuntzman Family Account"<sup>3</sup>) reconciled to available documentation; and
- Whether, based on my review of available bank records, the cash withdrawals (*i.e.*, transfers from BLMIS) reflected on the customer statements for the Kuntzman Family Account during the period between and including December 11, 2006 and December 11, 2008 (the "Two Year Period") could be traced to bank accounts held by, or for the benefit of, the Kuntzman Defendants.

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<sup>1</sup> My findings and conclusions rendered in the Collura January 2019 Report, along with the accompanying Exhibits to that report are all incorporated by reference herein. All capitalized terms that are defined in the Collura January 2019 Report shall have the same meaning in this report.

<sup>2</sup> The Defendants in this matter are Kuntzman Family LLC, Jacqueline D. Green, Wayne D. Green, Judith Gattegno, Irrevocable Trust FBO Jennifer Gattegno, and Irrevocable Trust FBO Ethan Siegel (the "Kuntzman Defendants"). Pursuant to court order, the count(s) seeking to recover subsequent transfers from Jacqueline D. Green, Wayne D. Green, Judith Gattegno, Irrevocable Trust FBO Jennifer Gattegno, and Irrevocable Trust FBO Ethan Siegel were dismissed without prejudice. *See Order Granting in Part and Denying in Part Defendants' Motions to Dismiss*, dated July 16, 2015, Adv. No. 10-04752 (SMB), ECF No. 40.

<sup>3</sup> The Kuntzman Defendants maintained BLMIS customer account 1ZA539 under the name "KUNTZMAN FAMILY LLC" Prior to July 2004, the name on the account was "KUNTZMAN FAMILY PARTNERS L P." Prior to June 1994, the name on the account was "IRVING KUNTZMAN AND FAYE KUNTZMAN TIC," and prior to November 1993, the name on the account was "IRVING KUNTZMAN AND FAYE KUNTZMAN." *See* AMF00015947; AMF00016146; AMF00016147.

7. For purposes of this report, I use the term “reconciled” to indicate when I have matched, agreed and/or determined consistency between cash deposits and withdrawals reflected on BLMIS customer statements to information or data per another source (e.g., amounts on BLMIS bank records, correspondence between the customer and BLMIS regarding incoming deposits and/or requests for withdrawals, or documents produced to the Trustee related to the Kuntzman Family Account). For purposes of this report, I use the term “traced” to indicate when I have followed the flow of funds from one bank account (e.g., BLMIS’s bank account) to another bank account (e.g., the Kuntzman Defendants’ bank account).

8. This report has been prepared in connection with the above-captioned litigation and is to be used only for the specific purposes of this lawsuit. It is not to be used for any other purpose without the express written consent of FTI. If called upon to testify in this matter, I intend to provide testimony regarding my analyses and conclusions consistent with this report.

9. FTI is being compensated at a rate of \$670 per hour for my professional time incurred in performing the work necessary to prepare this report. FTI’s fees are not contingent on the conclusions reached in this report or the outcome of the above-captioned litigation.

### **III. METHODOLOGY**

10. To determine whether the cash transactions reflected on the customer statements for the Kuntzman Family Account reconciled to available documentation, I used the results of the forensic analysis of the available BLMIS bank records as described in the Collura January 2019 Report. In addition, I reviewed and analyzed other documents and records maintained at BLMIS, including documents contained in BLMIS customer files, as well as documents produced to the Trustee related to the Kuntzman Family Account. Based on my review and analysis of these materials, I identified the cash transactions related to the Kuntzman Family Account that reconciled to these documents.

11. Next, to determine whether the cash withdrawals reflected on the customer statements for the Kuntzman Family Account during the Two Year Period could be traced to bank accounts held by, or for the benefit of, the Kuntzman Defendants, I again used the

available information from BLMIS bank records. Using these available bank records, I identified the recipients of the transfers from BLMIS.

12. The documents and data that I considered in connection with this report are listed in **Exhibit 2**. I reserve the right to supplement my report based on any additional documents or information received.

#### **IV. SUMMARY OF FINDINGS**

13. Based on the forensic analyses performed, as described above and throughout this report, as well as my skills, knowledge, experience, education and training that I applied to the documents and information available to me as of the date of this report, my findings are summarized as follows:

- For my reconciliation analysis, I analyzed the cash transactions in the Kuntzman Family Account from December 1992 to December 2008. During this time period, the customer statements for the Kuntzman Family Account reflected 127 cash deposit and withdrawal transactions. I reconciled all but one (approximately 99%) of the 127 cash transactions reflected on the customer statements for the Kuntzman Family Account to available BLMIS bank records, documentation contained in BLMIS customer files, and/or documents produced to the Trustee related to the Kuntzman Family Account. I was unable to complete my reconciliation for the remaining cash deposit transaction reflected on the customer statements for the Kuntzman Family Account due to the unavailability of records related to transactions dated before December 1998. However, based on my review of documents contained in the customer file maintained at BLMIS for the Kuntzman Family Account, I have not found any instance of the Kuntzman Defendants communicating to BLMIS any disagreement with respect to the accuracy of any cash transaction reflected on the customer statements for the Kuntzman Family Account.
- For my tracing analysis, I analyzed the cash withdrawals from the Kuntzman Family Account during the Two Year Period, totaling \$762,075. Based on available

bank records from BLMIS, I traced 100% of the total amount of cash withdrawals reflected on the customer statements for the Kuntzman Family Account during the Two Year Period to a bank account held by defendant Kuntzman Family LLC.

## **V. RECONCILIATION OF CASH TRANSACTIONS FOR THE KUNTZMAN FAMILY ACCOUNT**

### *A. OVERVIEW*

14. The chronological listings of all cash and principal transactions for every BLMIS customer account compiled by FTI, as described in the Principal Balance Calculation Report, included the cash transactions for the Kuntzman Family Account. From December 1992 to December 2008, the customer statements for the Kuntzman Family Account reflected 127 cash transactions, which consisted of seven cash deposits into the Kuntzman Family Account totaling \$1,193,077 and 120 cash withdrawals from the Kuntzman Family Account totaling \$2,990,763. I was tasked with reconciling these 127 cash transactions to available BLMIS bank records, documentation contained in BLMIS customer files, and/or documents produced to the Trustee related to the Kuntzman Family Account. *See Exhibit 3* for a list of these cash deposit and withdrawal transactions; *see also Exhibit 6* – “Reconciliation and Tracing Results – Kuntzman Family Account.”

### *B. BLMIS BANK ACCOUNTS*

15. Of the 127 cash transactions reflected on the customer statements for the Kuntzman Family Account, 118 occurred in the ten-year period for which there were available bank records for the three BLMIS bank accounts described in the Collura January 2019 Report. I reconciled all 118 cash transactions reflected on the customer statements for the Kuntzman Family Account during the period December 1998 to December 2008 to available BLMIS bank records, including monthly bank statements, copies of deposited checks, and copies of cancelled checks. The 118 cash transactions were reconciled to the BLMIS bank accounts as follows:

- 703 Account – six transactions (deposit via check)
- 509 Account – 112 transactions (withdrawals via check)

16. Based on the results of my reconciliation of the cash transactions in the Kuntzman Family Account to available BLMIS bank records, as well as the results of my Global Reconciliation as further described in the Collura January 2019 Report, I can reasonably infer that if BLMIS bank records prior to December 1998 were available to me, I would be able to reconcile the pre-December 1998 cash transactions in the Kuntzman Family Account.

C. BLMIS CUSTOMER FILES

17. In addition to reconciling the cash deposit and withdrawal transactions for the Kuntzman Family Account to the available BLMIS bank records as described above, I also reviewed customer files from BLMIS's records to identify correspondence related to the cash transactions reflected on the customer statements for the Kuntzman Family Account.

18. Customer files related to customer accounts were maintained in BLMIS's records and were generally organized by BLMIS account number. These customer files contained documents including, but not limited to, correspondence between the customer and BLMIS employees regarding incoming deposits and/or requests for withdrawals, customer contact information, BLMIS customer agreements, as well as trust and other agreements.

19. As part of my analysis, I identified the customer file for the Kuntzman Family Account within BLMIS's records. I reviewed the documents contained in this customer file to identify correspondence that related to the cash transactions reflected on the customer statements for the Kuntzman Family Account. I identified letters and/or other correspondence in this customer file that support 119 of the 127 cash transactions in the Kuntzman Family Account. One of these letters, which is a request for a cash withdrawal from the Kuntzman Family Account, is attached as **Exhibit 4** and is described further below:

- In a letter dated October 15, 2008, the defendant Jacqueline Green requests: "Please withdraw \$30,000.00 from Kuntzman Family LLC, account #1-ZA539-3 and issue check to same."

20. Furthermore, based on my review of the documents contained in the customer file for the Kuntzman Family Account, I have not found any instance of the Kuntzman Defendants communicating to BLMIS any disagreement with respect to the accuracy of any cash transaction reflected on the customer statements for the Kuntzman Family Account.

**D. DOCUMENTS PRODUCED TO THE TRUSTEE RELATED TO THE KUNTZMAN FAMILY ACCOUNT**

21. As of the date of this report, the Kuntzman Defendants have produced to the Trustee documents consisting of, among other things, a copy of deposited checks. In addition, the Trustee has received documents related to the Kuntzman Family Account originating from an accounting firm, Konigsberg Wolf & Co., P.C. These documents include, among other things, electronic spreadsheets detailing activity in the Kuntzman Family Account, including cash deposit and withdrawal transactions.

22. I reconciled 39 of the 127 cash transactions reflected on the customer statements for the Kuntzman Family Account to these documents produced to the Trustee.

**E. RESULTS OF RECONCILIATION**

23. In total, based on my analyses described above, I reconciled all but one (approximately 99%) of the 127 cash transactions reflected on the customer statements for the Kuntzman Family Account to available BLMIS bank records, documentation contained in BLMIS customer files, and/or documents produced to the Trustee related to the Kuntzman Family Account. **Exhibit 3**, which lists each of the 127 cash transactions for the Kuntzman Family Account, contains three columns that indicate the results of my reconciliation to each of these sources of information.

24. I was unable to complete my reconciliation for the remaining cash deposit transaction reflected on the customer statements for the Kuntzman Family Account due to the unavailability of records related to transactions dated before December 1998. However, as noted above, I have not found any instance of the Kuntzman Defendants communicating to

BLMIS any disagreement with respect to the accuracy of any cash transaction reflected on the customer statements for the Kuntzman Family Account.

## VI. TRACING CASH WITHDRAWALS FROM THE KUNTZMAN FAMILY ACCOUNT

### A. OVERVIEW

25. The available BLMIS bank records, as described in the Collura January 2019 Report, were also used to determine whether I could trace the funds that left BLMIS's bank accounts to accounts held by, or for the benefit of the Kuntzman Defendants. To determine this, I performed a "Receiving Bank" analysis, which traces transfers from BLMIS's bank accounts to bank accounts that received funds from BLMIS.

26. During the Two Year Period, the customer statements for the Kuntzman Family Account reflected 25 cash withdrawal transactions totaling \$762,075.<sup>4</sup> These cash withdrawal transactions were in the form of checks written from the 509 Account.

27. Tracing withdrawals via check requires a legible copy of a cancelled check. The necessary information to trace the amount to a receiving bank account, including endorser, banking institution and bank account number, is typically included on the back of a cancelled check. Oftentimes, however, not all of this information was available on the copy of the

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<sup>4</sup> One of these 25 cash withdrawal transactions was dated 12/5/2006 on the customer statements for Kuntzman Family Account. However, as this cash withdrawal cleared the 509 Account on 12/20/2006, it is considered a cash withdrawal during the Two Year Period.

cancelled check written from the 509 Account and/or the available information was often illegible. In any event, when possible, I identified and captured all available and legible information from the cancelled checks written from the 509 Account related to withdrawals from the Kuntzman Family Account.

*B. RESULTS OF TRACING*

28. **Exhibit 5** summarizes the results of my Receiving Bank analysis and lists the bank account I identified by tracing cash withdrawals from BLMIS during the Two Year Period.<sup>5</sup> This exhibit supports that 100% of the total dollar amount of withdrawals reflected on the customer statements for the Kuntzman Family Account during the Two Year Period went to a bank account held by defendant Kuntzman Family LLC.

**VII. SIGNATURE AND RIGHT TO MODIFY**

29. This report and the exhibits contained herein present my findings and the bases thereof. To the extent that any additional information is produced by any party, I reserve the right to incorporate such additional information into my report or to modify my report as necessary.

By:



Lisa M. Collura, CPA, CFE, CFF  
June 28, 2019

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<sup>5</sup> See also **Exhibit 6**.

### **VIII. LIST OF EXHIBITS**

Exhibit 1: Curriculum Vitae

Exhibit 2: Documents Considered

Exhibit 3: List of All Cash Transactions in the Kuntzman Family Account

Exhibit 4: Letter from BLMIS Customer File for the Kuntzman Family Account

Exhibit 5: Results of Receiving Bank Analysis – Kuntzman Family Account (*During the Two Year Period*)

Exhibit 6: Reconciliation and Tracing Results – Kuntzman Family Account